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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Revision of Part 22 and Part 90 of the
Commission's Rules to Facilitate Future
Development of Paging Systems

WT Docket No. 96-18

Implementation of Section 309(j) of the
Communications Act -- Competitive Bidding

PP Docket No. 93-253

COMMENTS OF MOTOROLA INC.

Motorola, Inc. ("Motorola") hereby files its comments on the petitions for reconsideration of the *First Report and Order* in this docket.¹ In addition to Motorola's own petition for partial reconsideration, petitions for reconsideration were filed by ten other companies seeking limited changes to the *First Report and Order*, as modified by the *Order on Reconsideration*.² Motorola believes that a number of the issues raised in these petitions serve valuable public interest goals by deterring fraud and allowing legitimate carriers to meet pent up demand for paging services. Motorola accordingly urges the Commission to adopt the changes discussed below.

Motorola filed its own petition for reconsideration on June 10, 1996 seeking expansion of the freeze exemption for Special Emergency Radio Services ("SERS") to all limited

¹FCC 96-183 (Apr. 23, 1996) ("*First Report and Order*"), reprinted at 61 Fed. Reg. 21380 (May 10, 1996).

²FCC 96-260 (June 11, 1996) ("*Order on Reconsideration*"); Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings, 61 Fed. Reg. 33742 (June 28, 1996).

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eligibility Part 90 services.³ Motorola continues to believe that such interim relief is necessary to allow companies access to internal, private use systems to meet important needs, and that allowing interim filings by entities satisfying the requirements for licensing in limited eligibility services will not compromise the Commission's goals in this proceeding or lead to speculation. As noted in Motorola's petition, the speculation on shared channels was confined to Business Radio Services, where any commercial enterprise was eligible for licensing.⁴ By restricting interim relief to limited eligibility services, *i.e.*, the Public Safety Radio Service, the Industrial Radio Services, and the Land Transportation Radio Service, the Commission will not engender speculation and will meet not only the communications needs of public safety entities, but also the needs of enterprises critical to the economy.

Beyond this relief, Motorola also believes a number of meritorious issues have been raised in other petitions for reconsideration. Specifically, petitioners have requested needed relief from the application freeze provisions to limit fraudulent applications while allowing legitimate carriers to relieve pent up demand for service caused by prior application backlogs and changes in processing procedures. Motorola, as a supplier of paging products and infrastructure in close contact with many large and small carriers, believes that some additional interim relief measures are required to address the substantial, growing demand for paging service.

³Petition for Partial Reconsideration of Motorola, Inc., WT Docket No. 96-18 (June 10, 1996).

⁴*Id.* at 8-9.

In recent years, demand for the low cost functionality of paging has exploded, taxing the Commission's resources, and legitimate carriers have not been able to keep pace with customer needs. Motorola accordingly urges the Commission to reconsider the following aspects of the *First Report and Order*:

- ▶ **First**, the Commission should act on requests to extend the beneficial changes made in the *Order on Reconsideration* to allow incumbent carriers to file interim modification applications for new sites within 65 kilometers (40 miles) of sites that were applied for by February 8, 1996. As noted in numerous petitions for reconsideration,⁵ the applications filed between September 30, 1995 and February 8, 1996 were filed by legitimate carriers seeking to meet customer demands and should be accorded flexibility under the interim filing rules.
- ▶ **Second**, the Commission should limit the eligibility to file applications mutually exclusive with interim modification applications to incumbent carriers operating co-channel facilities near the proposed site.⁶ To allow application mills the ability to block needed expansion merely by filing mutually exclusive applications will defeat the benefits of the interim licensing rules. At the same time, the reconsideration request preserves the rights of legitimate carriers.

⁵Petition for Clarification and/or Partial Reconsideration of Interim Rules of Ameritech Mobile Services, Inc. ("Ameritech Petition"), WT Docket No. 96-18 (June 10, 1996) at 1-3; Petition for Partial Reconsideration of Blooston, Mordkofsky, Jackson & Dickens ("BMJ&D Petition"), WT Docket No. 96-18 (June 10, 1996) at 2-4; Metrocall Inc. Petition for Clarification or Partial Reconsideration, WT Docket No. 96-18 (June 10, 1996) at 5-7; The Personal Communications Industry Association Petition for Partial Reconsideration, WT Docket No. 96-18 (June 10, 1996) at 7-9; Petition for Partial Reconsideration of ProNet, Inc. ("ProNet Petition"), WT Docket No. 96-18 (June 10, 1996) at 3-4; Petition for Partial Reconsideration of Radiofone, Inc. ("Radiofone Petition"), WT Docket No. 96-18 (June 10, 1996) at 1.

⁶Ameritech Petition at 3-5; BMJ&D Petition at 5-6; Petition for Reconsideration of Paging Network, Inc. ("PageNet Petition"), WT Docket No. 96-18 (June 10, 1996) at 3-4; ProNet Petition at 4-8; Radiofone Petition at 1.


- ▶ **Third**, the Commission should allow the filing of applications to "fill-in" dead spots within existing contours.⁷ These applications are clearly intended to meet existing customer demands and will not adversely impact the Commission's goals in this proceeding or create speculative filings.
- ▶ **Finally**, the Commission should permit carriers the flexibility to build out additional sites beyond the 65 kilometer limit on a secondary basis.⁸ Because any such sites are built at the carrier's own risk, this change does not impact on the "whitespace" available for competitive bidding. At the same time, adopting this change will permit interim relief to for carriers with critical expansion needs.

With these limited changes, Motorola believes the Commission will significantly improve the ability of legitimate carriers to meet the vast pent up demand for paging service. At the same time, these changes prevent fraud, will not engender speculation, and will not compromise future availability of spectrum for competitive bidding. Motorola therefore urges the Commission to grant these petitions for reconsideration promptly and allow existing carriers the flexibility necessary to meet public needs.

Respectfully submitted,

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Dated: June 10, 1996

⁷ProNet Petition at 10-11.

⁸PageNet Petition at 5-7.

CERTIFICATE OF SERVICE

I, Kim R. Riddick, hereby certify that on this 15th day of July, 1996, I caused copies of the foregoing "Comments of Motorola, Inc.", to be served via first-class postage prepaid mail to the following:

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